

04-1170 KANSAS V. MARSH

DECISION BELOW: 102 P3d 445

LOWER COURT CASE NUMBER: 81,135

QUESTION PRESENTED:

Does it violate the Constitution for a state capital-sentencing statute to provide for the imposition of the death penalty when the sentencing jury determines that the mitigating and aggravating evidence is in equipoise?

IN ADDITION TO THE QUESTION PRESENTED BY THE PETITION, THE PARTIES ARE DIRECTED TO BRIEF AND ARGUE THE FOLLOWING QUESTIONS: “Does this Court have jurisdiction to review the judgment of the Kansas Supreme Court under 28 U.S.C. Sec. 1257, as construed by *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469 (1975)?”; “Was the Kansas Supreme Court's judgment adequately supported by a ground independent of federal law?” ORIGINAL ARGUMENT 12/07/2005 <http://www.court.gov/arguments/term2005/04-1170.pdf> ORDER OF 3/24/2006: THIS CASE IS RESTORED TO THE CALENDAR FOR REARGUMENT.

CERT. GRANTED 5/31/2005